

sector. I just don't think that makes sense, when it is so clear that we are going to have problems in the next century with respect to Y2K, that we would compound those problems by not giving high technology the same sort of protection that we have given to a variety of other industries.

Second, it seems to me that a vote against this legislation is a vote against the Nation's risk-takers, and it is a vote against the Nation's entrepreneurs who are working their heads off today to make their systems Y2K-compliant but are legitimately concerned about frivolous lawsuits. I don't think the Senate ought to be voting today against those risk-takers and entrepreneurs.

Third, it seems to me that a vote against this bill fails to recognize how dramatic the bipartisan changes have been to this legislation since it came out of the Senate Commerce Committee. The Senate Commerce Committee bill, as far as I am concerned, was a nonstarter. The House bill is a nonstarter. But this bill puts tough pressure on business and directs systems to cure problems, as well as those who might want to bring suits to mitigate damages.

Now, my friend from North Carolina has said repeatedly for days that if you have a problem and you are a small businessperson, you are not going to get to recover anything except the cost of the computer.

My question, colleagues, is, Why in the world would the overwhelming majority of the Nation's small businesses be calling for passage of this bill if all they got when there was a problem was the cost of a computer?

I agree with the Senator from North Carolina. These are dedicated, thoughtful people. Why in the world would they be in support of a bill if all they got was the cost of the computer?

The reason they are for the bill is they get all the rights that are prescribed in the contract that a majority of them signed when they purchased a computer. They get the damages that are the foreseeable consequence of a Y2K problem. They get economic losses as prescribed by State contract law. That is the reason why the overwhelming number of small businesses in this country are for this legislation.

The fact of the matter is, colleagues, that the so-called culprits who are behind the Y2K problem are folks who didn't really realize decades ago what we would be faced with at the end of the century.

Let me tell you what Alan Greenspan had to say recently on this issue. Alan Greenspan said, "I am one of the culprits who created the problem. I used to write those programs back in the 1960s and 1970s, and was so proud of the fact that I was able to squeeze a few elements of space by not having to put 19 before the year."

That is what Alan Greenspan said. He said he was one of the culprits behind the problem. In the infancy of the in-

formation age when every byte of memory cost about \$1 million, he saved his company a lot of money. Today a million bytes of memory can be bought for less than a penny.

This problem was a result of an engineering tradeoff, not some kind of conspiracy of computer geeks. I doubt that any computer programmer ever dreamed that programs written in the 1960s and 1970s would still be running today.

But the point of this legislation is to keep the heat on all of our Nation's companies to do everything they can to make the chips and the computers and all of our systems Y2K compliant. Let's get the problem fixed. But let's also have a safety net in order to ensure justice for those who have problems.

I want to say to my friend from North Carolina, the distinguished Senator, that he talked about how companies that are big and bad are going to get off the hook; they are going to get a free ride, and, again, you are not going to get anything except the cost of the computer.

Let me tell you what the hooks are for those that are big and bad. If you are ripping people off, you are going to get stuck with joint and several liability. You are going to get stuck with punitive damages. That is what happens under this legislation when you are big and bad.

But what we say in the many cases where we don't have that kind of conduct—the Senator from North Carolina and I certainly agree on this point—is you will be liable for the proportion of the problem that you caused. We say that the small businesses deserve a break on punitive damages.

But let's make no mistake about it, colleagues. If you are big and bad, the hooks in this bill are clear. Nobody is getting off the hook. You get stuck with joint and several liability. You can be held for punitive damages. That is in the text of this legislation.

There is a reason, colleagues, why the little guy is for this bill. There is a reason why the overwhelming number of small businesses in this Nation are for the bill. It is that those risk takers, those entrepreneurs, those innovators are saying, as we take the steps to make our systems Y2K compliant, let's also have a safety net so if there are frivolous lawsuits that we aren't going to lose everything as a result.

This bill has seen 11 major changes to favor the consumer, the plaintiff, and small businessperson since the legislation left the Senate Commerce Committee. I particularly want to credit the chairman of the committee, Senator MCCAIN, and the Democratic leader on the technology issue, Senator DODD, who have worked so hard to help fashion this proposal.

I hope today when we vote that we will not send a message that high technology doesn't deserve the same kind of treatment that airlines get, that the securities industry gets, that the financial services sector gets. Let's pass this

bill. Let's send it to the conference with a resounding vote.

I yield the floor.

#### UNANIMOUS CONSENT AGREEMENT—H.R. 1664

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that prior to the cloture vote on the motion to proceed to H.R. 1664 there be 10 minutes of debate equally divided between Senators NICKLES and BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the agreement regarding H.R. 1664 be amended to add 5 minutes for Senator DOMENICI.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I yield the floor.

#### Y2K ACT

The Senate continued with the consideration of the bill.

Mr. HOLLINGS. I yield 2 minutes to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I would like to respond very briefly to my colleague from Oregon, Senator WYDEN.

First, I point out that based on my study of the issue it appears to me that virtually every consumer group which is composed of, among others, small businesspeople around this country is opposed to this bill.

Second, and more importantly, Senator WYDEN said—I am quoting him—that the "bill permits recovery of damages for foreseeable consequences."

I say with all due respect to my colleagues that is exactly what the bill does not permit. That language appears nowhere in this bill. I challenge him, since he has made that statement, to find the language in the bill that says "damages for foreseeable consequences."

Mr. WYDEN. Will my colleague yield?

Mr. EDWARDS. I will.

Mr. WYDEN. I appreciate that. Of course, that is what many contracts say. That is the economic loss rule. We say that the rights that apply are the rights of contracts, which most small businesses enter into when they buy the system. It is the State economic loss rule. State contract law with respect to economic loss covers those issues.

I appreciate him yielding.

Mr. EDWARDS. My response to that is, first of all, the vast majority of the computers are not bought pursuant to a written law in contract, because most folks are not able to hire a team of lawyers to draft a contract on their behalf. So the contracting is a meaningless concept, except as between one